

# Notice of Allowability

Application No.

10/023,264

Examiner

Brian Ensey

Applicant(s)

NORDQVIST ET AL.

Art Unit

2615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to RCE and petition filed 4/13/06.
2. ☒ The allowed claim(s) is/are 28-39 and 41-162 renumbered 1-134.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

### EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Michael Bolan on April 15, 2005.

The application has been amended as follows:

In the claims:

In claims 28-162, "(Newly Added)" has been changed to --(New)--.

Claim 40 has been canceled.

In claim 36, page 4, line 3, "ration" has been changed to --ratio--.

In claim 46, page 7, line 3, "ration" has been changed to --ratio--.

In claim 59, page 10, line 3, "ration" has been changed to --ratio--.

In claim 71, page 13, line 3, "ration" has been changed to --ratio--.

In claim 83, page 17, line 14, "ration" has been changed to --ratio--.

In claim 107, page 23, line 3, "ration" has been changed to --ratio--.

In claim 112, page 25, line 3, "ration" has been changed to --ratio--.

In claim 117, page 27, line 3, "ration" has been changed to --ratio--.

In claim 122, page 29, line 22, "ration" has been changed to --ratio--.

In claim 125, page 31, line 13, "ration" has been changed to --ratio--.

In claim 131, page 33, line 3, "ration" has been changed to --ratio--.

In claim 136, page 35, line 3, "ration" has been changed to --ratio--.

In claim 140, page 36, line 3, "ration" has been changed to --ratio--.

In claim 145, page 39, line 11, "ration" has been changed to --ratio--.

### ***Priority***

Applicants claim to foreign priority from to PCT Application PCT/DK01/0026, filed April 4, 2001, which claims priority from Danish Patent Application PA 2000 00554, filed April 4, 2000. On April 13, 2006, an ADS was received which identifies the foreign application for which priority is claimed by application number, country and filing date. This ADS has been reviewed, and it is noted that Petitioner has listed intermediate application number PCT/DK01/00226 not as a continuation of the present application, but rather in the section entitled ~Foreign Priority Information." As such, Petitioner's claim for priority is improper, and the present petition under 37 C.F.R. 1.55(c) to accept an unintentionally delayed claim for priority under 35 U.S.C. § 119(a)-(d) cannot be granted. Therefore priority to Danish Patent Application PA 2000 00554, filed April 4, 2000 is denied due to failure to satisfy all the requirements of the renewed petition under 37 CFR 1.55(c) filed by the applicant on 4/13/06. A detailed explanation regarding the petition was mailed to the applicant on 08/30/06.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Ensey whose telephone number is 571-272-7496. The examiner can normally be reached on Monday - Friday 6:30 AM - 3:00 PM.

Art Unit: 2615

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh Tran can be reached on 571-272-7564. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
P.O. Box 1450  
Alexandria, Va. 22313-1450

**Or faxed to:**

(571) 273-8300, for formal communications intended for entry and for informal or draft communications, please label "PROPOSED" or "DRAFT".  
Hand-delivered responses should be brought to:

Customer Service Window  
Randolph Building  
401 Dulany Street  
Arlington, VA 22314

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**SINH TRAN**  
**SUPERVISORY PATENT EXAMINER**

BKE  
September 1, 2006